

111TH CONGRESS
1ST SESSION

S. 278

To amend the Internal Revenue Code of 1986 to provide for a tax credit
for qualified donations of employee services.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2009

Mr. HATCH (for himself, Mr. KENNEDY, Mr. GREGG, and Mr. COCHRAN) in-
troduced the following bill; which was read twice and referred to the Com-
mittee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide
for a tax credit for qualified donations of employee services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Incentive to Serve Tax
5 Act”.

6 **SEC. 2. TAX CREDIT FOR QUALIFIED DONATIONS OF EM-**
7 **PLOYEE SERVICES.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new
 2 section:

3 **“SEC. 45R. QUALIFIED EMPLOYEE SERVICE DONATIONS.**

4 “(a) IN GENERAL.—For purposes of section 38, the
 5 qualified employee service donation credit under this sec-
 6 tion is an amount equal to 25 percent of the qualified
 7 wages paid or incurred by the taxpayer.

8 “(b) QUALIFIED WAGES.—For purposes of this sec-
 9 tion—

10 “(1) IN GENERAL.—The term ‘qualified wages’
 11 means the wages paid or incurred by an employer
 12 during the taxable year to an eligible employee dur-
 13 ing periods in which the eligible employee is per-
 14 forming qualified services.

15 “(2) WAGES.—The term ‘wages’ has the mean-
 16 ing given to such term by subsection (b) of section
 17 3306 (determined without regard to the dollar limi-
 18 tation contained in such section).

19 “(3) LIMITATION ON WAGES TAKEN INTO AC-
 20 COUNT.—The amount of qualified wages which may
 21 be taken into account with respect to any individual
 22 shall not exceed \$100,000 per year.

23 “(4) COORDINATION WITH OTHER CREDITS.—

24 “(A) WORK OPPORTUNITY CREDIT.—The
 25 term ‘qualified wages’ shall not include wages

1 attributable to service rendered during the 1-
 2 year period beginning with the day the indi-
 3 vidual begins work for the employer if any por-
 4 tion of such wages is taken into account in de-
 5 termining the credit under section 51.

6 “(B) INDIAN EMPLOYMENT CREDIT.—The
 7 term ‘qualified wages’ shall not include wages
 8 with respect to any employee if a credit is al-
 9 lowed for wages paid to such employee under
 10 section 45A.

11 “(c) ELIGIBLE EMPLOYEE.—For purposes of this
 12 section, the term ‘eligible employee’ means any employee
 13 of the employer who performs qualified services at the di-
 14 rection of the employer and with the employee’s consent
 15 for a period of not less than 160 hours for which such
 16 employee was fully compensated during the taxable year
 17 of the employer.

18 “(d) QUALIFIED SERVICES.—For purposes of this
 19 section—

20 “(1) IN GENERAL.—The term ‘qualified serv-
 21 ices’ means—

22 “(A) eligible direct services to recipients or
 23 beneficiaries of charitable organizations and
 24 community agencies,

1 “(B) the recruitment and coordination of
 2 activities of volunteers providing such eligible
 3 direct services, or

4 “(C) the building of the capacity of such
 5 organizations and agencies to provide such eligi-
 6 ble direct services.

7 “(2) ELIGIBLE DIRECT SERVICES.—The term
 8 ‘eligible direct services’ means direct services which
 9 advance 1 or more of the following:

10 “(A) Improving the quality of education in
 11 public schools for economically disadvantaged
 12 students.

13 “(B) Expanding and improving access to
 14 health care.

15 “(C) Improving and conserving energy and
 16 natural resources.

17 “(D) Improving economic opportunities for
 18 economically disadvantaged individuals.

19 “(E) Improving disaster preparedness and
 20 response.

21 “(e) VERIFICATION.—No amount shall be allowed as
 22 a credit under subsection (a) for qualified wages for quali-
 23 fied services with respect to which the taxpayer has not
 24 submitted such information or certification as the Sec-

1 retary determines necessary to ensure the performance of
 2 such qualified services.

3 “(f) SPECIAL RULES.—For purposes of this section,
 4 rules similar to the rules of section 52 shall apply.”.

5 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
 6 tion 38(b) of the Internal Revenue Code of 1986 (relating
 7 to current year business credit) is amended by striking
 8 “plus” at the end of paragraph (34), by striking the period
 9 at the end of paragraph (35) and inserting “, plus”, and
 10 by adding at the end the following new paragraph:

11 “(36) the credit determined under section
 12 45R(a).”.

13 (c) CONFORMING AMENDMENTS.—

14 (1) Section 196(c) of the Internal Revenue
 15 Code of 1986 is amended by striking “and” at the
 16 end of paragraph (12), by striking the period at the
 17 end of paragraph (13) and inserting “, and”, and by
 18 adding at the end the following new paragraph:

19 “(14) the qualified employee service credit
 20 under section 45R(a).”.

21 (2) Section 280C(a) of such Code is amended
 22 by inserting “45R(a),” after “45P(a),”.

23 (d) CLERICAL AMENDMENT.—The table of sections
 24 for subpart D of part IV of subchapter A of chapter 1

1 of the Internal Revenue Code of 1986 is amended by add-
 2 ing at the end the following new item:

“Sec. 45R. Qualified employee service donations.”.

3 (e) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to wages paid or incurred after
 5 the date of the enactment of this Act.

6 **SEC. 3. EXCLUSION.**

7 Section 148 of the National and Community Service
 8 Act of 1990 (42 U.S.C. 12604) is amended—

9 (1) by redesignating subsection (g) as sub-
 10 section (h); and

11 (2) by inserting after subsection (f) the fol-
 12 lowing:

13 “(g) EXCLUSION FROM INCOME.—The amount of an
 14 educational award provided to an individual under this
 15 section shall not be included in the gross income of the
 16 individual for purposes of the Internal Revenue Code of
 17 1986.”.

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